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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2011-0858]

Permit-Required Confined Spaces; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements contained in the Standard on Permit-Required Confined Spaces (29 CFR 1910.146). The purpose of the information is to ensure that employers systematically evaluate the dangers in permit spaces before entry is attempted, and to ensure that adequate measures are taken to make the spaces safe for entry.

DATES: Comments must be submitted (postmarked, sent, or received) by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2011-0858, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA-2011-0858) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled SUPPLEMENTARY INFORMATION.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket (including this Federal Register notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen,
Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room
N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-
2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Section 1910.146(c)(2) requires the employer to post danger signs to inform exposed employees of the existence and location of, and the danger posed by, permit spaces.

Section 1910.146(c)(4) requires the employer to develop and implement a written “permit-space program” when the employer decides that its employees will enter permit spaces. The written program is to be made available for inspection by employees and their authorized representatives. Section 1910.146(d) provides the employer with the requirements of a permit-required confined space program (“permit-space program”) required under this paragraph.

Section 1910.146(c)(5)(i)(E) requires that the determinations and supporting data specified by paragraphs (c)(5)(i)(A), (c)(5)(i)(B), and (c)(5)(i)(C) of this section are documented by the employer and are made available to each employee who enters a permit space or to that employee’s authorized representative.

Under paragraph (c)(5)(ii)(H) of §1910.146, the employer is required to verify that the space is safe for entry and that the pre-entry measures required by paragraph (c)(5)(ii) of this section have been taken, using a written certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification is to be made before entry and is required to be made available to each employee entering the space or to that employee’s authorized representative.

Section 1910.146(c)(7)(iii) requires the employer to document the basis for determining that all hazards in a permit space have been eliminated using a certification that contains the date, the location of the space, and the signature of the person making

the determination. The certification is to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(c)(8)(i) requires that when a host employer arranges for employees of another employer (contractor) to perform work that involves permit-space entry the host employer must inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only following compliance with a permit-space program meeting the requirements of this section.

Section 1910.146(c)(8)(ii) requires that the employer inform the contractor of the elements, including the hazards identified and the host employer's experience with the space, that make the space in question a permit space. Section 1910.146(c)(8)(iii) requires that the employer inform the contractor of any precautions or procedures that the host employer has implemented to protect employees in or near permit spaces where contractor personnel will be working. Section 1910.146(c)(8)(v) requires the employer to debrief the contractor at the conclusion of the entry operations regarding the permit-space program followed and regarding any hazards confronted or created in permit spaces during entry operations.

Section 1910.146(c)(9)(iii) requires that the contractor inform the host employer of the permit-space program that the contractor will follow and of any hazards confronted or created in permit spaces; the contractor will inform the host employer either through a debriefing or during the entry operation.

Section 1910.146(d)(5)(vi) requires the employer to immediately provide each authorized entrant or that employee's authorized representative with the results of any testing conducted in accordance with paragraph (d) of this section.

Section 1910.146(e)(1) requires the employer to document the completion of measures required by paragraph (d)(3) by preparing an entry permit before employee entry is authorized. Paragraph (f) of §1910.146 specifies the information to be included on the entry permit. Paragraph (e)(3) requires that the employer make the completed permit available at the time of entry to all authorized entrants by posting the permit at the entry portal or by any other equally effective means, so that the entrants can know that pre-entry preparations have been completed. Paragraph (e)(6) requires the employer to retain each canceled entry permit for at least one year.

Section 1910.146(g)(4) requires that the employer certify that the training required by paragraphs (g)(1) through (g)(3) has been accomplished by preparing a written certification record.

Section 1910.146(k)(1)(iv) requires that the employer inform each rescue team or service of the hazards they may confront when called on to perform a rescue at the site. Section 1910.146(k)(2)(ii) requires that the employer train affected employees to perform assigned rescue duties. The employer must ensure that such employees successfully complete the training required to establish proficiency as an authorized entrant, as provided by paragraphs (g) and (h) of this section. Section 1910.146(k)(2)(iii) requires that the employer train affected employees in basic first aid and cardiopulmonary resuscitation (CPR). The employer shall ensure that at least one member of the rescue team or service who holds a current certification in first aid and CPR is available.

Section 1910.146(k)(4) requires that if an injured entrant is exposed to a substance for which a Material Safety Data Sheet (MSDS) or other similar written

information is required to be kept at the worksite, that the employer make the MSDS or written information available to the medical facility treating the exposed entrant.

Section 1910.146(l)(2) requires that employers make all information required to be developed by this section available to affected employees and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Permit-Required Confined Spaces (29 CFR 1910.146). OSHA is proposing to decrease the existing burden hour estimate for the

collection of information requirements specified by the Standard from 1,475,091 hours to 1,433,443 hours, for a total decrease of 41,648 hours. This adjustment was due to updated data that indicated a slight decline in the number of establishments with permit spaces, permit-space programs, and permit-space entrants. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

<u>Type of Review:</u>	Extension of a currently approved collection.
<u>Title:</u>	Permit-Required Confined Spaces (29 CFR 1910.146).
<u>OMB Number:</u>	1218-0203.
<u>Affected Public:</u>	Business or other for-profits; Not-for-profit organizations; Federal Government; State, Local, or Tribal Government.
<u>Number of Respondents:</u>	209,045.
<u>Frequency of Response:</u>	On occasion.
<u>Average Time Per Response:</u>	Varies from one minute (.02 hour) to maintain a certificate to 16 hours to develop a written permit-space entry program.
<u>Estimated Total Burden Hours:</u>	1,433,443.

Estimated Cost
(Operation and
Maintenance): \$0.

IV. Public Participation — Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA-2011-0858). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled ADDRESSES). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350, (TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information, such as social security numbers and dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g.,

copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5-2010 (72 FR 55355).

Signed at Washington, DC, on December 9, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

BILLING CODE: 4510-26-P

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